

**REMARKS/ARGUMENTS**

After the foregoing Amendment, Claims 1-9 are currently pending in this application. New claims 7-9 have been added to more distinctly claim subject matter which Applicants regard as the invention, and are fully supported by the substitute specification at paragraphs 15 and 23. Applicants submit that no new matter has been introduced into the application by these amendments.

**Claim Rejections - 35 USC § 102(b)**

Claims 1-5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by WO 03/064821 (Yamakazi).

Claim 1 is directed to a lever for a valve control of a piston engine. The lever comprises a rocker arm, rocker lever or a finger lever arranged in a roller pocket formed by left and right side parts of the lever that is rotatably mounted on a support pin arranged in the lever. The width of the roller pocket is smaller than a sum of the total thickness of the left and right side parts of the lever. The left and right side parts are tapered sufficiently via sections in a region of a bore hole for holding the support pin so that the width of the right side part supporting the support pin is smaller than the width of the roller pocket. It is important that the sum of the thicknesses of the left and right side parts supporting the pin is smaller than the roller pocket width because this permits material removed during machining of coaxial bore holes for insertion of the support pin to be pressed into the roller pocket between the two side parts and then removed.

Yamakazi is also directed to a rocker arm, rocker lever or finger lever, but fails to disclose the limitations recited in claim 1 that a width of the roller pocket is smaller than a sum of the total thicknesses of the left side part and the right side part of the lever, and that a sum of the width of the left side part supporting the

support pin and a width of the right side part supporting the support pin is smaller than the width of the roller pocket.

"When the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value." Manual of Patent Examining Procedure § 2125 citing Hockerson-Halberstadt, Inc. v. Avia Group Int'l, 222 F.3d 951, 956 (Fed. Cir. 2000). In rejecting claims 1-5, the Examiner references figs. 1, 2, and 7 of Yamakazi. The reference makes no statement regarding the dimensions of the disclosed subject matter, nor does it state that the drawing figures are to scale. Yamakazi's drawings therefore cannot anticipate limitations relating to the proportions of the presently claimed invention. Even if improperly considered, when copies of the drawings are measured, the claim limitations are not met.

Claims 2-5 are dependent from claim 1 and should be similarly patentable.

Based on the arguments presented above, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1-5 is respectfully requested.

**Claim Rejection - 35 USC § 103(a)**

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamakazi in view of U.S. 6,959,676 (Okubo).

Claim 6 depends from claim 1 and further recites that one of the side parts has an outer tapered section, while the tapered section on the other side part faces towards the roller pocket.

Okubo discloses a rocker arm having recesses facing toward the roller pocket to receive lubricating oil. The recesses taught by Okubo and referenced in the action are configured such that the thickness of the side part increases as proximity to the hole for receiving the support pin increases. Okubo therefore teaches away

from the claimed configuration of the present device wherein "a width of the roller pocket is smaller than a sum of total thicknesses of the left side part and the right side part of the lever," and "a sum of the width of the left side part supporting the support pin and a width of the right side part supporting the support pin is smaller than the width of the roller pocket," because this requires that the thickness of the side parts decrease in the region of the hole for receiving the support pin.

Additionally, claim 6 is dependent from claim 1 and should therefore be similarly patentable.

Based on the arguments presented above, withdrawal of the 35 U.S.C. § 103(a) rejection of claim 6 is respectfully requested.

**Conclusion**

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephone interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

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**Application No.:** 10/598,793

In view of the foregoing amendment and remarks, Applicants respectfully submit that the present application, including claims 1-9, is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

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